

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of : BAILEY, Thomas William et al.
Application No. : 10/509,465
Filing Date : 28 September 2004
Title : Method and Apparatus for Loading a Container with a Product

Conf. No. : 2241
Grp. /A.U. : 3751
Examiner : Maust, Timothy Lewis

Docket No. : PG4774USW

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Communication Concerning IDS

The concurrently filed Information Disclosure Statement is submitted to specifically bring to the examiner's attention an action taken by another examiner in an earlier filed but co-pending application in the US Patent Office. As the Issue Fee had previously been paid in this case, this IDS accompanies a Petition to Withdraw the Application from Issue filed under 37 CFR 1.313(c)(2) and a Request for Continued Examination.

Applicant's wish to bring to the examiner's attention a provisional obviousness-type double patenting rejection which has been made in on 12/14/2007, in co-pending US Patent Application Serial No. 09/979,569, in view of the claims of the present application. USSN 09/979,569 is the US National Phase of a PCT Application, which published as WO 00/71419 on 30 November 2000. This PCT Publication has been previously considered by the examiner in the present action, as evidenced by the initialed 1449 which accompanied the notice of allowance dated 10/22/2007. Applicants, therefore offer the present submission to the extent that positions taken by another examiner in a co-pending application might be material to consideration the present application.

Applicants believe that the obviousness type double patenting rejection made in the co-pending application has made in error. Further, applicant's believe that claims of the present application are both novel and non-obvious over the content of WO 00/71419, as that publication has already been considered in this application, and the

present claims have been found novel and non-obvious over all the prior art of record.

In light of these prior findings, favorable consideration of the claims of the present application, and a further notice of allowance, is respectfully requested.

February 29, 2008

Dated: _____

Respectfully submitted:

/James P. Riek/

By: _____
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